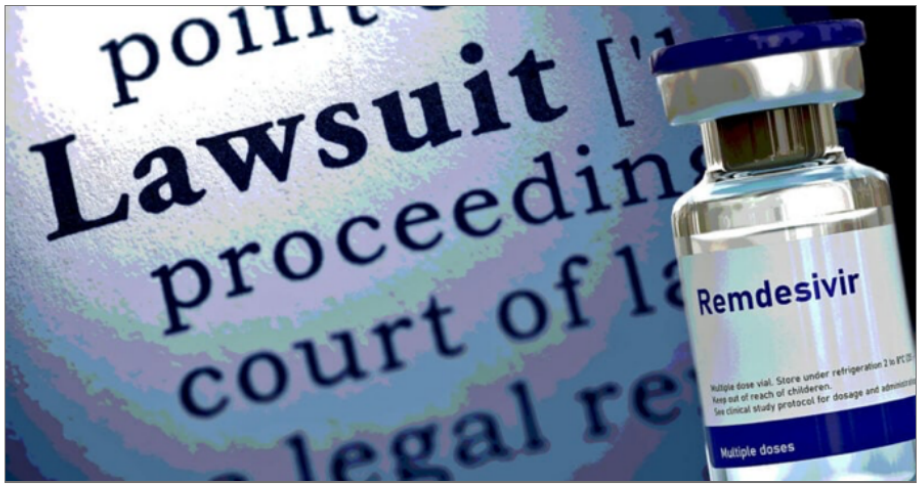
08/14/23 • COVID • BIG PHARMA › NEWS

Lawsuit Alleges COVID Patient 'Died From the Cure and Not from the Disease' After Receiving Contaminated Remdesivir

A Michigan judge ruled that a lawsuit filed by the family of a man who died after receiving remdesivir contaminated with glass particles can proceed, despite claims by the drug's manufacturer, Gilead Sciences, that it is shielded from liability under the Public Readiness and Emergency Preparedness, or PREP, Act.

By John-Michael Dumais

16



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A Michigan judge has ruled that a lawsuit against Gilead Sciences, the manufacturer of remdesivir, can move forward and be tried in the courts, despite claims by Gilead that it is protected under the Public Readiness and Emergency Preparedness (PREP) Act.

Remdesivir, an anti-viral drug sold under the brand name Veklury, was approved in May 2020 by the U.S. Food and Drug Administration (FDA) to treat COVID-19.

In her July 20 ruling, Judge Carol Kuhnke of the Circuit Court for the County of Washtenaw dismissed a motion for summary disposition filed by the defendants, Gilead Sciences and St. Joseph Mercy Chelsea Hospital.

St. Joseph Mercy Chelsea Hospital is where Daniel Nowacki received five doses of remdesivir between Nov. 10-24, 2021, which the lawsuit alleges caused two strokes and a leg amputation, leaving Nowacki unable to care for himself. He later died of complications.

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The drug Nowacki received came from one of two lots, comprising 55,000 vials, that were voluntarily recalled by the manufacturer on Dec. 3, 2021, because they were contaminated with glass particles.

Gilead has admitted the glass particles could lead to stroke and other serious health problems.

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Nowacki's family filed a lawsuit in December 2022, in an attempt to establish when Gilead knew of the contamination and to hold the hospital accountable for its lack of follow-up once it learned of the problem with the drug.

According to the lawsuit, the hospital's lack of action resulted in "[Nowacki's] subsequent treating physicians including staff at Henry Ford [being] unaware of this fact [i.e., the drug contamination]" so they "could not appropriately deal with Dan's medical condition."

Judge Kuhnke presided over oral arguments in the case on July 12. Among the key points she made during the proceeding was that, despite the immunity provided by the PREP Act and the emergency situation calling for the rapid development of treatments, she did not feel the law protected Gilead from negligent manufacturing.

She said:

> "When this particular product and the doses … were administered to Mr. Nowacki, there was a failure, and the failure was that there were some doses that were contaminated with shards of glass, which were recognized by Gilead as being potential causes of stroke, which is what exactly happened to Mr. Nowacki. …
>
> "The product that was approved and that was used in this case was developed and marketed pursuant to a formula, and that formula is what HHS [the U.S. Department of Health and Human Services] approved for emergency use and for the protections of the PREP Act. …
>
> "And when the product has some contaminant in it, it is not meeting the requirements to avail itself of the PREP Act. It is no longer a covered countermeasure. It is an attempt at a covered countermeasure, but it is contaminated."

"Unfortunately he died from the cure and not from the disease," Kuhnke said.

In a press release from the firm representing Nowacki, attorney Ven Johnson said:

> "Dan Nowacki's case is a tragic example of the devastating consequences that can arise from sheer negligence and greed from pharmaceutical companies, and the incompetence of St. Joseph Mercy Chelsea in not giving timely notice of a recalled drug.
>
> "Drug manufacturers and medical institutions need to prioritize patient safety above all else. The four month delay of alerting Nowacki of the recalled Remdesivir prevented Mr. Nowacki's subsequent treaters from administering necessary treatment, which compromised Nowacki's recovery."

The difficulty of prosecuting under PREP Act

Ray Flores, a health freedom rights attorney, told The Defender, "This ruling doesn't create any kind of precedent, but it does let the case move forward."

According to Flores, this is the first time a judge has made arguments that have the potential to chip away at the otherwise impenetrable PREP Act, which allows for a challenge only on the basis of "willful misconduct."

Flores co-authored the article, "Pharma's Gatekeeper: How the PREP Act

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Protects Everyone Except Those Injured by Vaccines," published in The Defender in February. He wrote:

> "[The PREP Act] grants a 'covered person' immunity from legal liability for all claims for loss relating to the administration or use of covered 'countermeasures,' such as drugs, biological products, medical devices and vaccines. ... [This includes] the U.S. government; a manufacturer, a distributor, a program planner; and one who administers, or dispenses such countermeasures."

The only avenue left open to persons injured by such countermeasures — which includes the COVID-19 vaccines — is the Countermeasures Injury Compensation Program.

Although over 12,000 claims for COVID-19-related injuries have been filed in this program through Aug. 1, only four people have received compensation. Flores said their average award was just $2,200.

Highlighting the difficulty of even getting a case to court, Flores discussed the case of a 6-year-old Vermont student, vaccinated against his parents' wishes, that was thrown out by a Superior Court judge based on his understanding of the PREP Act.

"The Vermont ruling is clear and short," Flores wrote. "All state law protections (other than workers' compensation) essentially disappear under the PREP Act."

Nowacki's story and the recall

Nowacki went to the St. Joseph Mercy Hospital on Nov. 9, 2021, complaining of fatigue, cough, shortness of breath and loss of appetite. He was diagnosed with COVID-19, given monoclonal antibodies and sent home.

The next day, he returned to the emergency room with worsening symptoms, and on the same day began receiving remdesivir.

Within days, he had a stroke. He was discharged on Nov. 24 to a skilled nursing facility. While there, he started developing hematomas and reported swelling on his face, thighs and arms. He subsequently was admitted to Henry Ford Hospital, where treating physicians failed to crack the mystery of his symptoms.

On Dec. 14, Nowicki suffered another stroke.

Although Gilead began its recall on Dec. 3, 2021, Nowacki did not receive notification from St. Joseph Mercy Hospital until April 6, 2022, about the doses of remdesivir he received from the recalled batches.

The recall was published on the FDA website, which according to the lawsuit contained the following risk statement:

> "The administration of an injectable that contains glass particulates may result in local irritation or swelling in response to the foreign material. If the glass particulate reaches the blood vessels and can travel to various organs and block blood vessels in the heart, lungs, or brain which can cause stroke and even lead to death.
>
> "To date, Gilead Sciences Inc., has not received any reports of adverse events related to this recall."

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The case against Gilead

Prior to receiving FDA approval, remdesivir had received emergency use authorization in May 2020 after preliminary data from a trial run by the National Institute of Allergy and Infectious Diseases showed the drug cut the length of hospital stays.

The lawsuit asserts the FDA's decision to approve remdesivir, based on Gilead's claim it could reduce mortality and improve outcomes in patients suffering from COVID-19, came only two weeks after the World Health Organization (WHO)

rejected its use based on trials showing the opposite to be true.

"In fact," the lawsuit says, "WHO raised concerns regarding Remdesivir causing more harm based on complaints of liver and kidney problems in patients who received the drug."

Given the WHO's warning and public concern, the lawsuit questions the FDA's failure to convene an independent advisory committee to review remdesivir before issuing its approval and instead claim the drug "did not raise significant safety or efficacy issues."

The lawsuit asserts Gilead breached both implied and express warranty and is guilty of negligence, gross negligence and intentional misrepresentation.

In response, Gilead went to the federal court to argue that all of the plaintiff's claims should be preempted under the PREP Act.

In June, Judge Victoria A. Roberts of the U.S. District Court for the Eastern District of Michigan, Southern Division, dismissed the count of intentional representation without prejudice and remanded the other counts to the state court.

Ruling is 'one giant leap forward'

"I am excited to see this case moving forward," Flores said. "This is one giant step forward toward remuneration for those injured by [PREP Act-]covered countermeasures."

When asked whether this ruling could affect others seeking claims for injuries against such countermeasures as the mRNA vaccines, Flores said he believes it will be an uphill battle. "This is just a state case, and the law is federal. The PREP Act says you have to prove willful misconduct."

But, he added, the ruling could help to wake up members of Congress, who could "decide to amend the PREP Act and hold 'covered persons' accountable."

"There must be a limit to this complete immunity," Flores wrote in February. "What about constitutionality or the right to a jury trial under the Seventh Amendment?"

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John-Michael Dumais

John-Michael Dumais is a news editor for The Defender. He has been a writer and community organizer on a variety of issues, including the death penalty, war, health freedom and all things related to the COVID-19 pandemic.

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SYakoban
2 days ago

Pure remdeathivir is contaminated remdeathivir. It was administered with the intention of killing.

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GarySummers ↗ SYakoban
2 days ago edited

The Company that plans to 'distribute Remdesivir', 'UNITAID', a therapy for Covid#19 'Gates, Soro's and Clintons, Obama, Biden, Fauci, have a 'Financial' Interest'?

One billionaire investor behind UNITAID is 'George Soros' himself . But why stop there? UNITAID is also financed by the 'Bill and Melinda Gates Foundation' and also involves a partnership with the 'Clinton Health Access Initiative' (CHAI). And interestingly enough both 'UNITAID' and 'Gilead Biosciences' 'supported' Hillary Clinton for president in 2016 .
https://civilianintelligenc...

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SYakoban ↗ GarySummers
2 days ago

Remember maybe a month ago billy was meeting with Xi Jinping and it barely got a mention? 2 scumbags don't just get together to chitchat. He was up to something or things, but even alternative media didn't bat an eyebrow. Could be the type of stuff in your link.

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GarySummers ↗ SYakoban
a day ago

The CIA Bio-Weapons Labs in Ukraine, RFK.Jr speaks about another factor in all this Craziness? Many are corrupt in DC.

Dr. Peter Daszak, Dr. Ralph Baric, and Dr. Anthony Fauci should never have transferred their coronavirus research to Dr. Shi Zhengli at the Wuhan Institute of Virology

"Death Scientists?": Tucker And RFK Jr. Talk Ukraine, Biolabs, And Who Killed His Uncle"
https://www.zerohedge.com/p...

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donegoing2002
2 days ago

Even perfect uncontaminated Remdesivir is deadly. Run to Deaths Door

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kris ↗ donegoing2002
2 days ago

Yeah the nurses call it 'rundeathisnear' as in run away from that product!

2 0 Reply • Share ›

disqustedinph
2 days ago

If the Remdesivir was contaminated is irrelevant because this drug shuts down the patient's organs so they die. It is used to kill people.

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kris
2 days ago

💖Judge Carol Kuhnke💖

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Boopjr
2 days ago

Remdesiver, Killed many people. I've seen many stories regarding the drug.They all need to sue these people.I guarentee most did not know of this recall. I am sure they did not want that news out to the public. They villified Ivermectin and HQ, which was and is curing people from the virus. They knew this and if everyone else did, thereoson shot or remdesiver would not get approved. FDA, CDC and our goverment all knew this. Why did they allow these deadly drugs to still be mandated and remdesiver be the only treatment, is beyaond me, is a crime in itself!

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HuskieFan ■ ↗ Boopjr
a day ago

You answered your own question. Remdesivir is meant to kill. They want less people so they thin the herd and paid the hospitals to do it.

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Jennifer ■
2 days ago

Good article, J.M., tragic story and its only one of so many. May it keep moving forward and prevail.

3 0 Reply • Share ›

Double_Up ■
2 days ago

AZT and Remsedivir killed hundreds of thousands, okay, millions really.

2 0 Reply • Share ›

Dennis A Dragomir ■
2 days ago

run death is near...

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Diana Giaccardo ■
2 days ago

Just a thought; I'm not a lawyer. My common sense feels that willful misconduct can be proven in lawsuits against every darn one of the pharma companies, FDA agency, CDC, NIH...ALL OF THEM! Follow the money; every investor, the amount and the date they invested in these companies, the money filtered through agencies, their 'donations' from who and when. Audit! AND THEN you dig and find every video when these investors spoke of depopulation. That's WILLFUL and they are not God to make these decisions. Follow the Money is all I'm saying. ALL these investors KNEW !!!

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Sinless1 ■
a day ago

Contaminated? My first thought is what could they put in that bottle that's worse than Remdesivir?! Glass shards, I guess.

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Dan Parker ■
2 days ago

Why nothing about the original Remdesivir trials, or far safer, more effective alternatives like ivermectin? Contaminated batch? Like a contaminated batch of strychnine? We don't know from this article, because it might as well have been written with cover-up in mind.

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